



State of New Hampshire
PUBLIC EMPLOYEE LABOR RELATIONS BOARD

DOVER TEACHERS' UNION, :
LOCAL 3536, AFT :
Complainant :
v. :
DOVER SCHOOL COMMITTEE :
Respondent :

CASE NO. T-0316:2

DECISION NO. 83-21

APPEARANCES

Representing Dover Teachers' Union
Theodore G. Wells, Jr., AFT

Representing Dover School Committee
Bradley F. Kidder, Esq.

Also in Attendance
Beverly Conway
Thomas J. Conway
Kathryn P. Forbes
Bernard T. Ryder
William H. McCann, Jr.

BACKGROUND

The Dover Teachers' Union (union) filed an unfair labor practice charge against the Dover School Committee (committee) on March 10, 1983. In the complaint, the union charges that the committee has violated RSA 273-A:5, I (h) by violating the grievance procedure of their contract, in that a hearing on a filed grievance was denied by the committee contrary to contract language.

The committee responded by pointing out that the matter was now in arbitration, as provided under the contract, and a hearing is scheduled. The committee notes that the PELRB has consistently avoided interfering in grievances which are in a binding arbitration process, as is the case here. Further, the committee argues, the union can seek other remedies through their grievance procedure and asks for dismissal of the complaint with prejudice.

A hearing was held at the Public Employee Labor Relations Board's office in Concord, N.H. on May 12, 1983.

FINDINGS OF FACT AND RULINGS OF LAW

At hearing there was no dispute over the fact that the request for a "hearing" or a "meeting to discuss" had been denied by the committee on the grounds that

violation of the contract had occurred. The union contended that the meeting was required under the provisions of the grievance procedure. The committee argued that this too could be grieved to arbitration and the union responded that the PELRB was also an avenue for recourse.

DECISION AND ORDER

While the PELRB is loath to involve itself where binding arbitration of grievances is part of the contract, still we recognize that where the grievance process is involved, as opposed to the settlement of the individual's grievance, the PELRB must maintain an interest in the fair and impartial carrying out of the process itself, and cannot abdicate this responsibility to arbitration.

In this case, the committee has chosen to interpret the grievance process in such a way as to agree with its interpretation of the substance of the grievance, thereby denying even a chance for an amicable resolution. We cannot agree.

If either side is given the power to interpret the grievance process to exclude action on substance with which it disagrees, the purpose of the process has been subverted. Even admitting that all such grievances can be submitted to binding arbitration under this contract, we deny that this means circumventing a clearly recognized (and negotiated) step in the contract process, if for no other reason that this clearly incurs greater expense and forecloses the possibility of amicable resolution between the principal parties.

In light of the above, the PELRB finds that the Dover School Committee is in violation of their bargained agreement with the Dover Teachers Union and orders that in the future the Dover School Committee strictly comply with the letter and the spirit of the grievance process contained in their contract with the Dover Teachers Union.

Signed this 25th day of May 1983.


ROBERT E. CRAIG, Chairman


SEYMOUR OSMAN, Board Member